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SENATE BILL 562

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO REAL ESTATE APPRAISERS; CLARIFYING THAT
REGISTRATION IS FOR STATE APPRENTICE REAL ESTATE APPRAISERS;
PROVIDING QUALIFICATIONS FOR ALL LEVELS OF REAL ESTATE
APPRAISERS; BROADENING CONTINUING EDUCATION REQUIREMENTS;
INCREASING LICENSE AND OTHER FEES; PRESCRIBING PENALTIES;
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-30-3 NMSA 1978 (being Laws 1990,
Chapter 75, Section 3, as amended) is amended to read:

"61-30-3. DEFINITIONS. -- As used in the Real Estate
Appraisers Act:

A. "appraisal" or "real estate appraisal" means an
analysis, opinion or conclusion prepared by a real estate
appraiser relating to the nature, quality, value or utility of

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1 specified interests in or aspects of identified real estate or
2 real property, for or in expectation of compensation, and shall
3 include the following:

4 (1) a valuation, analysis, opinion or
5 conclusion prepared by a real estate appraiser that estimates
6 the value of identified real estate or real property; and

7 (2) an analysis or study of real estate or
8 real property other than estimating value;

9 B. "appraisal assignment" means an engagement for
10 which an appraiser is employed or retained to act or would be
11 perceived by third parties or the public as acting as a
12 disinterested third party in rendering an unbiased appraisal
13 [~~or real estate appraisal~~];

14 C. "appraisal foundation" means the appraisal
15 foundation incorporated as an Illinois not-for-profit
16 corporation on November 30, 1987 and to which reference is made
17 in the federal real estate appraisal reform amendments;

18 D. "appraisal report" means any communication,
19 written or oral, of an appraisal [~~or real estate appraisal~~]
20 regardless of title or designation and all other reports
21 communicating an appraisal;

22 E. "board" means the real estate appraisers board;

23 F. "certified appraisal" or "certified appraisal
24 report" means an appraisal or appraisal report given or signed
25 and certified as such by a state certified real estate

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1 appraiser and shall include an indication of which type of
2 certification is held and shall be deemed to represent to the
3 public that it meets the appraisal standards defined in the
4 Real Estate Appraisers Act;

5 G. "federal real estate appraisal reform
6 amendments" means the federal Financial Institutions
7 Examination Council Act of 1978, [~~12 U.S.C. 3301, et seq.~~] as
8 amended by Title [X] 11, Real Estate Appraisal Reform
9 Amendments [~~12 U.S.C. 3331 through 3351~~];

10 H. "general certificate" or "general certification"
11 means a certificate or certification for appraisals of all
12 types of real estate issued pursuant to the provisions of the
13 Real Estate Appraisers Act and the federal real estate
14 appraisal reform amendments;

15 I. "real estate" or "real property" means leasehold
16 or other estate or interest in, over or under land, including
17 structures, fixtures and other improvements and interests that
18 by custom, usage or law pass with a conveyance of land, though
19 not described in a contract of sale or instrument of
20 conveyance, and includes parcels with or without upper and
21 lower boundaries and spaces that may be filled with air;

22 J. "real estate appraiser" means any person who
23 engages in real estate appraisal activity in expectation of
24 compensation;

25 K. "residential certificate" or "residential

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1 certification" means a certificate or certification, limited to
2 appraisals of residential real estate or residential real
3 property without regard to the complexity of the transaction,
4 issued pursuant to the provisions of the Real Estate Appraisers
5 Act and as provided under the terms of the federal real estate
6 appraisal reform amendments;

7 L. "residential real estate" or "residential real
8 property" means real estate designed and suited or intended for
9 use and occupancy by one to four families, including use and
10 occupancy of manufactured housing;

11 M "specialized services" means those services that
12 do not fall within the definition of an appraisal assignment
13 and may include specialized financing or market analyses and
14 feasibility studies that may incorporate estimates of value or
15 analyses, opinions or conclusions given in connection with
16 activities such as real estate brokerage, mortgage banking,
17 real estate counseling and real estate tax counseling, provided
18 that the person rendering such services would not be perceived
19 by third parties or the public as acting as a disinterested
20 third party in rendering an unbiased appraisal or real estate
21 appraisal, regardless of the intention of the client and that
22 person;

23 N. "state certified appraisal" means any appraisal
24 that is identified as a state certified appraisal report or is
25 in any way described as being prepared by a state certified

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1 real estate appraiser;

2 0. "state certified real estate appraiser" means a
3 person who holds a current, valid general certificate or a
4 current, valid residential certificate issued pursuant to the
5 provisions of the Real Estate Appraisers Act;

6 P. "state licensed real estate appraiser" means a
7 person who holds a current, valid license issued pursuant to
8 the provisions of the Real Estate Appraisers Act; and

9 Q. "state [~~registered~~] apprentice real estate
10 appraiser" means a person who holds a current, valid
11 registration issued pursuant to the provisions of the Real
12 Estate Appraisers Act. "

13 Section 2. Section 61-30-4 NMSA 1978 (being Laws 1990,
14 Chapter 75, Section 4, as amended) is amended to read:

15 "61-30-4. ADMINISTRATION-- ENFORCEMENT. --

16 A. The board shall administer and enforce the Real
17 Estate Appraisers Act.

18 B. It is unlawful for a person to engage in the
19 business, act in the capacity of, advertise or display in any
20 manner or otherwise assume to engage in the business of, or act
21 as, a state apprentice real estate appraiser, state licensed
22 real estate appraiser or state certified real estate appraiser
23 without a license issued by the board. A person who engages in
24 the business or acts in the capacity of a state apprentice real
25 estate appraiser, state licensed real estate appraiser or state

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1 certified real estate appraiser has submitted to the
2 jurisdiction of the state and to the administrative
3 jurisdiction of the board, notwithstanding any other provisions
4 or statutes governing all professional and occupational
5 licenses. "

6 Section 3. Section 61-30-5 NMSA 1978 (being Laws 1990,
7 Chapter 75, Section 5, as amended) is amended to read:

8 "61-30-5. REAL ESTATE APPRAISERS BOARD CREATED. --

9 A. There is created a "real estate appraisers
10 board" consisting of seven members.

11 B. There shall be four real estate appraiser
12 members of the board who shall be licensed or certified.
13 Membership in a professional appraisal organization or
14 association shall not be a prerequisite to serve on the board.
15 No more than two real estate appraiser members shall be from
16 any one licensed or certified category.

17 C. Board members shall be appointed to five-year
18 terms and shall serve until their successor is appointed and
19 qualified. Real estate appraiser members may be appointed for
20 no more than two consecutive five-year terms.

21 D. No more than two members shall be from any one
22 county within New Mexico, and at least one real estate
23 appraiser member shall be from each congressional district.

24 E. One member of the board shall represent lenders
25 or their assignees engaged in the business of lending funds

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1 secured by mortgages. Two members shall be appointed to
2 represent the public. The public members shall not have been
3 real estate appraisers or engaged in the business of real
4 estate appraisals or have any financial interest, direct or
5 indirect, in real estate appraisal or any real-estate-related
6 business.

7 F. Vacancies on the board shall be filled by
8 appointment by the governor for the unexpired term within sixty
9 days of the vacancy.

10 G. The board is administratively attached to the
11 regulation and licensing department."

12 Section 4. Section 61-30-7 NMSA 1978 (being Laws 1990,
13 Chapter 75, Section 7, as amended) is amended to read:

14 "61-30-7. BOARD--POWERS--DUTIES.--The board shall:

15 A. adopt rules necessary to implement the
16 provisions of the Real Estate Appraisers Act;

17 B. establish educational programs and research
18 projects related to the appraisal of real estate;

19 C. establish the administrative procedures for
20 processing applications and issuing registrations, licenses and
21 certificates to persons who qualify to be [~~registered~~] state
22 apprentice real estate appraisers, state licensed [and] real
23 estate appraisers or state certified real estate appraisers;

24 D. receive, review and approve applications for
25 state [~~registered~~] apprentice real estate appraisers, state

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1 licensed real estate appraisers and each category of state
2 certified real estate appraisers and, for state licensed or
3 state certified real estate appraisers, prepare or supervise
4 the preparation of examination questions and answers and
5 supervise grading of examinations and enter into contracts with
6 one or more educational testing services or organizations for
7 such examinations;

8 E. define the extent and type of educational
9 experience, appraisal experience and equivalent experience that
10 will meet the requirements for registration, licensing and
11 certification under the Real Estate Appraisers Act after
12 considering generally recognized appraisal practices and set
13 minimum requirements for education and experience;

14 F. provide for continuing education programs for
15 the renewal of registrations, licenses and certification that
16 will meet the requirements provided in the Real Estate
17 Appraisers Act and set minimum requirements;

18 G. adopt standards to define the education programs
19 that will meet the requirements of the Real Estate Appraisers
20 Act and will encourage conducting programs at various locations
21 throughout the state;

22 H. adopt standards for the development and
23 communication of real estate appraisals provided in the Real
24 Estate Appraisers Act and adopt rules explaining and
25 interpreting the standards after considering generally

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1 recognized appraisal practices;

2 I. adopt a code of professional responsibility for
3 state ~~[registered]~~ apprentice real estate appraisers, state
4 licensed real estate appraisers and state certified real estate
5 appraisers;

6 J. comply with annual reporting requirements and
7 other requirements set forth in the federal real estate
8 appraisal reform amendments;

9 K. maintain a registry of the names and addresses
10 of the ~~[individuals]~~ persons who hold current registrations,
11 licenses and certificates issued under the Real Estate
12 Appraisers Act;

13 L. establish procedures for disciplinary action in
14 accordance with the Uniform Licensing Act against any applicant
15 or holder of a registration, license or certificate for
16 violations of the Real Estate Appraisers Act and any rules
17 adopted pursuant to provisions of that act; and

18 M perform such other functions and duties as may
19 be necessary to carry out the provisions of the Real Estate
20 Appraisers Act. "

21 Section 5. Section 61-30-8 NMSA 1978 (being Laws 1990,
22 Chapter 75, Section 8, as amended) is amended to read:

23 "61-30-8. BOARD-- ORGANIZATION-- MEETINGS. --

24 A. The board shall organize by electing a
25 ~~[chairman, vice chairman]~~ chairperson, vice chairperson and

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1 secretary from among its members annually. A majority of the
2 board shall constitute a quorum and may exercise all powers and
3 duties established by the provisions of the Real Estate
4 Appraisers Act.

5 B. The board shall keep a record of its
6 proceedings, a register of persons registered, licensed or
7 certified as state ~~[registered]~~ apprentice real estate
8 appraisers, state licensed real estate appraisers or state
9 certified real estate appraisers, showing the name and places
10 of business of each, and retain all records and applications
11 submitted to the board pursuant to the Real Estate Appraisers
12 Act.

13 C. The board shall meet not less frequently than
14 once each calendar quarter at such place as may be designated
15 by the board, and special meetings may be held on five days'
16 written notice to each of the members by the ~~[chairman]~~
17 chairperson. At least annually, the board shall meet in each
18 of the congressional districts."

19 Section 6. Section 61-30-9 NMSA 1978 (being Laws 1990,
20 Chapter 75, Section 9, as amended) is amended to read:

21 "61-30-9. REIMBURSEMENT AND EXPENSES. --The board may
22 appoint such committees of the board ~~[and employ such persons~~
23 ~~to assist the board]~~ as may be necessary. Each member of the
24 board or any committee shall receive per diem and mileage as
25 provided in the Per Diem and Mileage Act and shall receive no

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1 other perquisite, compensation or allowance. Compensation for
2 employees, investigative contractors or consultants and any
3 necessary supplies and equipment shall be paid from the
4 appraiser fund. "

5 Section 7. Section 61-30-10 NMSA 1978 (being Laws 1990,
6 Chapter 75, Section 10, as amended) is amended to read:

7 "61-30-10. REGISTRATION, LICENSE OR CERTIFICATION
8 REQUIRED--EXCEPTIONS.--

9 A. It is unlawful for any person in this state to
10 engage or attempt to engage in the business of developing or
11 communicating real estate appraisals or appraisal reports
12 without first registering as an apprentice or obtaining a
13 license or certificate from the board under the provisions of
14 the Real Estate Appraisers Act.

15 B. No person, unless certified by the board as a
16 state certified real estate appraiser under a general
17 certification or residential certification, shall:

18 (1) ~~assume~~ or use any title, designation or
19 abbreviation likely to create the impression of a state
20 certified real estate appraiser;

21 (2) use the term "state certified" to describe
22 or refer to any appraisal or evaluation of real estate prepared
23 by him;

24 (3) ~~assume~~ or use any title, designation or
25 abbreviation likely to create the impression of certification

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1 as a state certified real estate appraiser firm, partnership,
2 corporation or group; or

3 (4) assume or use any title, designation or
4 abbreviation likely to create the impression of certification
5 under a general certificate or describe or refer to any
6 appraisal or evaluation of nonresidential real estate by the
7 term "state certified" if the preparer's certification is
8 limited to residential real estate.

9 C. A state [~~registered~~] apprentice real estate
10 appraiser who is registered but does not hold a license or
11 certificate is authorized to prepare appraisals of all types of
12 real estate or real property, provided such appraisals are not
13 described or referred to as being prepared by a "state
14 certified real estate appraiser" holding a residential or
15 general certificate or by a "state licensed real estate
16 appraiser" and provided, further, such person does not assume
17 or use any title, designation or abbreviation likely to create
18 the impression of certification as a state certified real
19 estate appraiser or licensure as a state licensed real estate
20 appraiser.

21 D. A holder of a license or residential certificate
22 is authorized to prepare appraisals of nonresidential real
23 estate, provided such appraisals are not described or referred
24 to as "state certified by a general certified appraiser" and
25 provided, further, the holder of the certificate does not

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1 assume or use any title, designation or abbreviation likely to
2 create the impression of general certification.

3 E. To perform in federally related transactions, as
4 referenced in the federal Financial Institutions Reform,
5 Recovery and Enforcement Act, [~~an~~] a real estate appraiser
6 [~~must~~] shall, at a minimum, meet the requirements for licensing
7 as currently defined.

8 F. The requirement of registration, licensing or
9 certification shall not apply to a real estate broker or
10 salesperson who, in the ordinary course of business, gives an
11 opinion of the price or value of real estate for the purpose of
12 securing a listing, marketing of real property, affecting a
13 sale, lease or exchange, conducting market analyses or
14 rendering specialized services; provided, however, this opinion
15 of the price or value shall not be referred to or construed as
16 an appraisal or appraisal report and no compensation, fee or
17 other consideration is expected or charged for such opinion,
18 other than the real estate brokerage commission or fee for
19 services rendered in connection with the identified real estate
20 or real property.

21 G. The requirement of registration, licensing or
22 certification shall not apply to real estate appraisers of the
23 property tax division of the taxation and revenue department,
24 to a county assessor or to the county assessor's employees, who
25 as part of their duties are required to engage in real estate

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1 appraisal activity as a county assessor or on behalf of the
2 county assessor and no additional compensation fee or other
3 consideration is expected or charged for such appraisal
4 activity, other than such compensation as is provided by law.

5 H. The prohibition of Subsection A of this section
6 does not apply to persons whose real estate appraisal
7 activities are limited to the appraisal of interests in
8 minerals, including oil, natural gas, liquid hydrocarbons or
9 carbon dioxide, and property held or used in connection with
10 mineral property, if that person is authorized in his state of
11 residence to practice and is actually engaged in the practice
12 of the profession of engineering or geology.

13 I. The process of analyzing, without altering, an
14 appraisal report that is part of a request for mortgage credit
15 is considered a specialized service [~~under~~] as defined in
16 Subsection M of Section 61-30-3 NMSA 1978 [~~of the Real Estate~~
17 ~~Appraisers Act~~] and is exempt from the requirements of
18 registration, licensing or certification."

19 Section 8. Section 61-30-10.1 NMSA 1978 (being Laws 1992,
20 Chapter 54, Section 8, as amended) is amended to read:

21 "61-30-10.1. QUALIFICATION FOR [~~REGISTRATION~~] STATE
22 APPRENTICE REAL ESTATE APPRAISERS. --

23 A. Registration as a state apprentice real estate
24 appraiser shall be granted only to persons who are deemed by
25 the board to be of good repute and competent to render

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1 appraisals.

2 B. Each applicant for [a] registration as a state
3 apprentice real estate appraiser shall be a legal resident of
4 the United States, except as otherwise provided in Section
5 61-30-20 NMSA 1978, and have reached the age of majority.

6 C. Each applicant for registration as a state
7 [~~registered~~] apprentice real estate appraiser shall have

8 [~~(1) successfully completed seventy-five~~
9 ~~classroom hours of instruction in appraisal of real estate~~
10 ~~approved by the board; or~~

11 [~~(2) additional experience and~~] the education
12 requirements as established for the [~~registered~~] apprentice
13 classification issued by the appraiser qualifications board of
14 the appraisal foundation and adopted by rule pursuant to the
15 Real Estate Appraisers Act.

16 D. The board shall require such information as it
17 deems necessary from every applicant to determine the
18 applicant's honesty, trustworthiness and competency."

19 Section 9. Section 61-30-11 NMSA 1978 (being Laws 1990,
20 Chapter 75, Section 11, as amended) is amended to read:

21 "61-30-11. QUALIFICATIONS FOR LICENSE. --

22 A. Licenses shall be granted only to persons who
23 are deemed by the board to be of good repute and competent to
24 render appraisals.

25 B. Each applicant for a license as a state licensed

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1 real estate appraiser shall be a legal resident of the United
2 States, except as otherwise provided in Section 61-30-20 NMSA
3 1978, and have reached the age of majority.

4 C. Each applicant for a license as a state licensed
5 real estate appraiser shall have

6 ~~[(1) a minimum of two thousand hours of~~
7 ~~experience in real property appraisal;~~

8 ~~(2) successfully completed seventy-five~~
9 ~~classroom hours of instruction in appraisal of real estate and~~
10 ~~fifteen classroom hours related to the standards of~~
11 ~~professional practice approved by the board or such equivalent~~
12 ~~education in an activity closely related to or associated with~~
13 ~~real estate appraisal as determined by rule; or~~

14 ~~(3) such equivalent education in an activity~~
15 ~~closely related to or associated with real estate appraisal as~~
16 ~~determined by rule] additional experience and education~~
17 requirements as established for the licensed classification
18 issued by the appraiser qualifications board of the appraisal
19 foundation and adopted by rule pursuant to the Real Estate
20 Appraisers Act.

21 D. The board shall require such information as it
22 deems necessary from every applicant to determine the
23 applicant's honesty, trustworthiness and competency.

24 E. ~~[Individuals]~~ Persons who do not meet the
25 qualifications for licensure are not qualified for appraisal

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1 assignments involving federally related transactions. "

2 Section 10. Section 61-30-12 NMSA 1978 (being Laws 1990,
3 Chapter 75, Section 12, as amended) is amended to read:

4 "61-30-12. QUALIFICATIONS FOR CERTIFICATE. --

5 A. Certificates shall be granted only to persons
6 who are deemed by the board to be of good repute and competent
7 to render appraisals.

8 B. Each applicant for a certificate as a state
9 certified real estate appraiser shall be a legal resident of
10 the United States, except as otherwise provided in Section
11 61-30-20 NMSA 1978, and have reached the age of majority.

12 C. Each applicant for a residential certificate as
13 a state certified real estate appraiser shall have performed
14 actively as a real estate appraiser and shall have additional
15 experience and education requirements as established for the
16 residential certification classification issued by the
17 appraiser qualifications board of the appraisal foundation and
18 adopted by rule pursuant to the Real Estate Appraisers Act.

19 [~~C.~~] D. Each applicant for a general certificate as
20 a state certified real estate appraiser shall have performed
21 actively as a real estate appraiser and have

22 [~~(1) thirty months of experience in real~~
23 ~~property appraisal, with a minimum of two thousand hours of~~
24 ~~experience in real property appraisal of which at least fifty~~
25 ~~percent of the hours are in nonresidential appraisal work;~~

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1 ~~(2) successfully completed one hundred sixty-~~
2 ~~five classroom hours of instruction in appraisal of real estate~~
3 ~~and fifteen classroom hours related to the standards of~~
4 ~~professional practice approved by the board or such equivalent~~
5 ~~education in an activity closely related to or associated with~~
6 ~~real estate appraisal as determined by rule, which may include~~
7 ~~the seventy-five classroom hour requirement for the state~~
8 ~~licensed real estate appraiser or the one hundred five~~
9 ~~classroom hour requirement for the state certified real estate~~
10 ~~appraiser with a residential certificate; and~~

11 ~~(3) additional experience and education~~
12 ~~requirements as established for the general certification~~
13 ~~classification issued by the appraiser qualifications board of~~
14 ~~the appraisal foundation and adopted by rule pursuant to the~~
15 ~~Real Estate Appraisers Act.~~

16 ~~D. Each applicant for a residential certificate as~~
17 ~~a state certified real estate appraiser shall have performed~~
18 ~~actively as a real estate appraiser and shall have:~~

19 ~~(1) two years of experience in real property~~
20 ~~appraisal, with a minimum of two thousand five hundred hours of~~
21 ~~experience in real property appraisal;~~

22 ~~(2) successfully completed one hundred five~~
23 ~~classroom hours of instruction in appraisal of real estate and~~
24 ~~fifteen classroom hours related to the standards of~~
25 ~~professional practice approved by the board or such equivalent~~

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1 ~~education in an activity closely related to or associated with~~
2 ~~real estate appraisal as determined by regulation, which may~~
3 ~~include the ninety classroom hour requirement for the state~~
4 ~~licensed real estate appraiser; and~~

5 ~~(3) additional experience and education~~
6 ~~requirements established for the residential certification~~
7 ~~classification issued by the appraiser qualifications board of~~
8 ~~the appraisal foundation and adopted by rule pursuant to the~~
9 ~~Real Estate Appraisers Act] additional experience and education~~
10 ~~requirements as established for the general certification~~
11 ~~classification issued by the appraiser qualifications board of~~
12 ~~the appraisal foundation and adopted pursuant to the Real~~
13 ~~Estate Appraisers Act.~~

14 E. The board shall require such information as it
15 deems necessary from every applicant to determine the
16 applicant's honesty, trustworthiness and competency. "

17 Section 11. Section 61-30-13 NMSA 1978 (being Laws 1990,
18 Chapter 75, Section 13, as amended) is amended to read:

19 "61-30-13. APPLICATION FOR REGISTRATION, LICENSE OR
20 CERTIFICATE-- EXAMINATION. --

21 A. All applications for registrations, licenses or
22 certificates shall be made to the board in writing, shall
23 specify whether registration or a license or a certificate is
24 being applied for by the applicant and, if a certificate, the
25 classification of the certificate being applied for by the

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1 applicant and shall contain such data and information as may be
2 required by the board.

3 B. Each applicant for a license or a certificate
4 shall demonstrate by successfully passing a written
5 examination, prepared by or under the supervision of the board,
6 that the applicant possesses, consistent with licensure or the
7 certification sought, the following:

8 (1) an appropriate knowledge of technical
9 terms commonly used in or related to real estate appraising,
10 appraisal report writing and economic concepts applicable to
11 real estate;

12 (2) a basic understanding of real estate law;

13 (3) an adequate knowledge of theory and
14 techniques of real estate appraisal;

15 (4) an understanding of the principles of land
16 economics, real estate appraisal processes and problems likely
17 to be encountered in the gathering, interpreting and processing
18 of data in carrying out appraisal disciplines;

19 (5) an understanding of the standards for the
20 development and communication of real estate appraisals as
21 provided in the Real Estate Appraisers Act;

22 (6) knowledge of theories of depreciation,
23 cost estimating, methods of capitalization and the mathematics
24 of real estate appraisal that are appropriate for the
25 classification of certificate applied for by the applicant;

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1 (7) knowledge of other principles and
2 procedures as may be appropriate for the respective
3 classification; and

4 (8) an understanding of the types of
5 misconduct for which disciplinary proceedings may be initiated
6 against a state [~~registered~~] apprentice real estate appraiser,
7 state licensed real estate appraiser or state certified real
8 estate appraiser as set forth in the Real Estate Appraisers
9 Act.

10 C. The examination shall be given at least four
11 times each calendar year at such times and places within the
12 state as the board prescribes. The board shall make a
13 reasonable effort to conduct examinations in each congressional
14 district. Notice of passing or failing the examination shall
15 be given by the board to each applicant not later than [~~thirty~~]
16 forty-five days following the date of the examination.

17 D. An applicant for a license or a certificate who
18 fails to successfully complete the written examination may
19 apply for a reexamination for a license or certificate upon
20 compliance with such conditions as set forth in the rules [~~and~~
21 ~~regulations~~] adopted by the board pursuant to the provisions of
22 the Real Estate Appraisers Act. "

23 Section 12. Section 61-30-14 NMSA 1978 (being Laws 1990,
24 Chapter 75, Section 14, as amended) is amended to read:

25 "61-30-14. ISSUANCE AND RENEWAL OF REGISTRATION, LICENSES

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1 AND CERTIFICATES. --

2 A. The board shall issue to each qualified
3 applicant evidence of registration, a license or a certificate
4 in a form and size prescribed by the board.

5 B. [~~Every registration, license and certificate~~
6 ~~shall be renewed every three years on or before the thirtieth~~
7 ~~day of April. During the period from July 1, 1999 through~~
8 ~~April 30, 2002]~~ The board in its discretion may renew
9 registrations, licenses or certificates for periods of one, two
10 or three years for the purpose of coordinating continuing
11 education requirements with registration, license or
12 certificate renewal requirements.

13 C. Each registration, license or certificate holder
14 shall submit proof of compliance with continuing education
15 requirements and the [~~annual~~] renewal fee.

16 D. At the election of eligible holders of a
17 registration, license or certificate who perform or seek to
18 perform appraisals in federally related transactions under the
19 federal real estate appraisal reform amendments, each
20 application for renewal shall include payment of [~~an annual~~] a
21 registry fee set by the federal financial institutions
22 examination council. The registry fee shall be transmitted by
23 the board to the federal financial institutions examination
24 council. Notice of whether the state apprentice real estate
25 appraiser, state licensed real estate appraiser or state

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1 certified real estate appraiser has paid the federal registry
2 fee and is thus eligible to perform in federally related
3 transactions shall be included on the face of each
4 registration, license and certificate issued by the board.

5 ~~[D.]~~ E. The board shall certify renewal of each
6 registration, license or certificate [~~triennially~~] in the
7 absence of any reason or condition that might warrant the
8 refusal of the renewal of a registration, license or
9 certificate.

10 ~~[E.]~~ F. In the event any registration, license or
11 certificate holder fails to properly apply for renewal of the
12 registration, license or certificate within the thirty days
13 immediately following his registration, license or certificate
14 renewal date of any given year, the registration, license or
15 certificate shall expire thirty days following the renewal
16 date.

17 ~~[F.]~~ G. The board may renew an expired registration
18 upon application, payment of the current annual renewal fee,
19 submission of proof of compliance with continuing education
20 requirements and payment of a reinstatement fee in the amount
21 [~~of one hundred dollars (\$100)~~] not to exceed two hundred
22 dollars (\$200), in addition to any other fee permitted under
23 the Real Estate Appraisers Act.

24 ~~[G.]~~ H. The board may renew an expired license or
25 certificate upon application, payment of the current annual

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1 renewal fee, submission of proof of compliance with continuing
2 education requirements and payment of [a] the reinstatement fee
3 [~~in the amount of one hundred dollars (\$100)~~], in addition to
4 any other fee permitted under the Real Estate Appraisers Act;
5 provided that the board may, in the board's discretion, treat
6 the former certificate holder as a new applicant and further
7 may require reexamination as a condition to reissuance of a
8 certificate.

9 [H.] I. If during a period of one year from the
10 date a registration, license or certificate expires, the
11 registration, license or certificate holder is either absent
12 from this state on active duty military service or is suffering
13 from an illness or injury of such severity that the person is
14 physically or mentally incapable of renewal of the
15 registration, license or certificate, payment of the
16 reinstatement fee and, in the case of a license or certificate
17 holder, reexamination shall not be required by the board if,
18 within three months of the person's permanent return to this
19 state or sufficient recovery from illness or injury to allow
20 the person to make an application, the person makes application
21 to the board for renewal. A copy of the person's military
22 orders or a certificate of the applicant's physician shall
23 accompany the application.

24 [H.] J. The board may adopt additional requirements
25 by [~~regulation~~] rule for the issuance or renewal of

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1 registrations, licenses or certificates to maintain or upgrade
2 real estate appraiser qualifications at a level no less than
3 the recommendations of the appraiser qualifications board of
4 the appraisal foundation or the requirements of the appraisal
5 subcommittee. "

6 Section 13. Section 61-30-15 NMSA 1978 (being Laws 1990,
7 Chapter 75, Section 15, as amended) is amended to read:

8 "61-30-15. REFUSAL, SUSPENSION OR REVOCATION OF
9 REGISTRATION, LICENSE OR CERTIFICATE. --

10 A. The board, consistent with Section [~~61-30-6~~]
11 61-30-7 NMSA 1978, shall refuse to issue or renew a
12 registration, license or certificate or shall suspend or revoke
13 a registration, license or certificate at any time when the
14 applicant, [~~registered~~] state apprentice real estate appraiser
15 [~~or license or certificate holder~~], state licensed real estate
16 appraiser or state certified real estate appraiser, in
17 performing or attempting to perform any of the actions set
18 forth in the Real Estate Appraisers Act, is determined by the
19 board to have:

20 (1) procured or attempted to procure a
21 registration, [~~or~~] license or certificate by knowingly making a
22 false statement or submitting false information or through any
23 form of fraud or misrepresentation;

24 (2) refused to provide complete information in
25 response to a question in an application for registration, [~~or~~]

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1 a license or [a] certificate or failed to meet the minimum
2 qualifications established by the Real Estate Appraisers Act;

3 (3) paid money, other than as provided for in
4 the Real Estate Appraisers Act, to any member or employee of
5 the board to procure registration, [or] a license or a
6 certificate;

7 (4) been convicted of a crime that is
8 substantially related to the qualifications, functions and
9 duties of [a] the person developing real estate appraisals and
10 communicating real estate appraisals to others;

11 (5) committed an act involving dishonesty,
12 fraud or misrepresentation or by omission engaged in a
13 dishonest or fraudulent act or misrepresentation with the
14 intent to substantially benefit the registration, license or
15 certificate holder or another person or with the intent to
16 substantially injure another person;

17 (6) willfully disregarded or violated any of
18 the provisions of the Real Estate Appraisers Act or the
19 [~~regulations~~] rules of the board adopted pursuant to that act;

20 (7) accepted an appraisal assignment when the
21 employment itself is contingent upon the real estate appraiser
22 reporting a predetermined analysis or opinion or where the fee
23 to be paid for the performance of the appraisal assignment is
24 contingent upon the opinion, conclusion or valuation reached or
25 upon the consequences resulting from the appraisal assignment;

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1 provided that a contingent fee agreement is permitted for the
2 rendering of special services not constituting an appraisal
3 assignment and the acceptance of a contingent fee is clearly
4 and prominently stated on the written appraisal report;

5 (8) suffered the entry of a final civil
6 judgment on the grounds of fraud, misrepresentation or deceit
7 in the making of an appraisal; provided that the state
8 ~~[registered]~~ apprentice real estate appraiser, state licensed
9 real estate appraiser or state certified real estate appraiser
10 shall be afforded an opportunity to present matters in
11 mitigation and extenuation, but may not collaterally attack the
12 civil judgment; or

13 (9) committed any other conduct that is
14 related to dealings as a state ~~[registered]~~ apprentice real
15 estate appraiser, state licensed real estate appraiser or state
16 certified real estate appraiser and that constitutes or
17 demonstrates bad faith, untrustworthiness, impropriety, fraud,
18 dishonesty or any unlawful act.

19 B. The board, consistent with Section ~~[61-30-6]~~
20 61-30-7 NMSA 1978, shall refuse to issue or renew a
21 registration, license or certificate and shall suspend or
22 revoke a registration, license or certificate at any time when
23 the board determines that the applicant or state ~~[registered]~~
24 apprentice real estate appraiser, state licensed real estate
25 appraiser or state certified real estate appraiser, in the

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1 performance of real estate appraisal work, has:

2 (1) repeatedly failed to observe one or more
3 of the standards for the development or communication of real
4 estate appraisals set forth in the [~~regulations~~] rules adopted
5 pursuant to the Real Estate Appraisers Act;

6 (2) repeatedly failed or refused, without good
7 cause, to exercise reasonable diligence in developing an
8 appraisal, preparing an appraisal report or communicating an
9 appraisal;

10 (3) repeatedly been negligent or incompetent
11 in developing an appraisal, in preparing an appraisal report or
12 in communicating an appraisal; or

13 (4) violated the confidential nature of
14 records to which the state [~~registered~~] apprentice real estate
15 appraiser, state licensed real estate appraiser or state
16 certified real estate appraiser gained access through
17 employment or engagement as such an appraiser.

18 C. The action of the board relating to the
19 issuance, suspension or revocation of any registration, license
20 or certificate shall be governed by the provisions of the
21 Uniform Licensing Act. The board shall participate in any
22 hearings required or conducted by the board pursuant to the
23 provisions of the Uniform Licensing Act.

24 D. The provisions of the Criminal Offender
25 Employment Act shall govern any consideration of criminal

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1 records required or permitted under the Real Estate Appraisers
2 Act.

3 E. Nothing in the Real Estate Appraisers Act shall
4 be construed to preclude any other remedies otherwise available
5 under common law or statutes of this state."

6 Section 14. Section 61-30-16 NMSA 1978 (being Laws 1990,
7 Chapter 75, Section 16, as amended) is amended to read:

8 "61-30-16. STANDARDS OF PROFESSIONAL APPRAISAL
9 PRACTICE-- CERTIFICATE OF GOOD STANDING. --

10 A. Each state apprentice real estate appraiser,
11 state licensed real estate appraiser or state certified real
12 estate appraiser [~~registered, licensed or certified under the~~
13 ~~Real Estate Appraisers Act~~] shall comply with generally
14 accepted standards of professional appraisal practice and
15 generally accepted ethical rules to be observed by a real
16 estate appraiser. Generally accepted standards of professional
17 appraisal practice are currently evidenced by the uniform
18 standards of professional appraisal practice promulgated by the
19 appraisal foundation and as adopted by [~~regulation under~~] rule
20 pursuant to provisions of the Real Estate Appraisers Act.

21 B. The board, upon payment of a fee in an amount
22 specified in its [~~regulations~~] rules, may issue a certificate
23 of good standing to any [~~state registered, licensed or~~
24 ~~certified~~] real estate appraiser who is in good standing
25 [~~under~~] in accordance with the Real Estate Appraisers Act."

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1 Section 15. Section 61-30-17 NMSA 1978 (being Laws 1990,
2 Chapter 75, Section 17, as amended) is amended to read:

3 "61-30-17. FEES. --The board shall charge and collect the
4 following fees not to exceed:

5 A. an application fee for a registration, [~~in the~~
6 ~~amount of one hundred dollars (\$100)~~] two hundred dollars
7 (\$200);

8 B. an application fee for a license or residential
9 certification, [~~in the amount of two hundred dollars (\$200)~~]
10 four hundred dollars (\$400);

11 C. an application fee for general certification,
12 [~~in the amount of two hundred fifty dollars (\$250)~~] five
13 hundred dollars (\$500);

14 D. an examination fee for general and residential
15 certification or license, [~~in the amount of one hundred dollars~~
16 ~~(\$100)~~] two hundred dollars (\$200);

17 E. a [~~triennial~~] registration renewal fee, [~~in the~~
18 ~~amount of one hundred fifty dollars (\$150)~~] two hundred fifty
19 dollars (\$250);

20 F. a [~~triennial~~] certificate renewal fee for
21 residential certification, or license renewal, [~~in the amount~~
22 ~~of three hundred dollars (\$300)~~] four hundred fifty dollars
23 (\$450);

24 G. a [~~triennial~~] certificate renewal fee for
25 general certification, [~~in the amount of four hundred fifty~~

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1 ~~dollars (\$450)]~~ five hundred dollars (\$500);

2 H. the registry fee as required by the federal real
3 estate appraisal reform amendments;

4 I. for registration for temporary practice, [~~the~~
5 ~~amount of one hundred dollars (\$100)]~~ two hundred dollars
6 (\$200);

7 J. for each duplicate registration, license or
8 certificate issued because a registration, license or
9 certificate is lost or destroyed and an affidavit as to its
10 loss or destruction is made and filed, [~~a fee in the amount of~~
11 ~~twenty-five dollars (\$25.00)]~~ fifty dollars (\$50.00); and

12 K. fees to cover reasonable and necessary
13 administrative expenses. "

14 Section 16. Section 61-30-19 NMSA 1978 (being Laws 1990,
15 Chapter 75, Section 19, as amended) is amended to read:

16 "61-30-19. CONTINUING EDUCATION. --

17 A. The board shall adopt [~~regulations~~] rules
18 providing for continuing education programs that offer courses
19 in real property appraisal, practices and techniques, including
20 basic real estate law and practice. The [~~regulations~~] rules
21 shall require that every state [~~registered~~] apprentice real
22 estate appraiser, state licensed real estate appraiser or state
23 certified real estate appraiser, as a condition to renewal,
24 shall successfully complete [~~thirty classroom hours of~~
25 ~~instruction every three years in courses~~] the continuing

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1 education requirements approved by the board.

2 B. The [~~regulations~~] rules shall prescribe areas of
3 specialty or expertise relating to registration, licenses and
4 the type of certificate held and may require that a certain
5 part of [~~the thirty classroom hours of instruction~~] continuing
6 education be devoted to courses in the area of the state
7 [~~registered~~] apprentice real estate appraiser's, state licensed
8 real estate appraiser's or state certified real estate
9 appraiser's specialty or expertise. The [~~regulations~~] rules
10 shall also permit state [~~registered~~] apprentice real estate
11 appraisers, state licensed real estate appraisers or state
12 certified real estate appraisers to meet the continuing
13 education requirements by participation other than as a student
14 in educational processes and programs in real property
15 appraisal theory, practices and techniques by instructing or
16 preparing educational materials. "

17 Section 17. Section 61-30-20 NMSA 1978 (being Laws 1990,
18 Chapter 75, Section 20, as amended) is amended to read:

19 "61-30-20. NONRESIDENT APPLICANTS--RECIPROCITY. --

20 A. The board shall issue a registration, license or
21 certificate to a nonresident, provided that state's
22 requirements for registration, licensing or certification are
23 the same or similar to the requirements set forth in the Real
24 Estate Appraisers Act. In the event that the other state's
25 requirements are not similar or cannot be verified, a

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1 qualifying nonresident applicant may become a [~~registered~~
2 state apprentice real estate appraiser, state licensed real
3 estate appraiser or state certified real estate appraiser [~~in~~
4 ~~this state~~] by conforming to all conditions of the Real Estate
5 Appraisers Act. Examinations taken in other states are
6 acceptable in New Mexico [~~provided~~] at the board's discretion
7 if the exam was at the appropriate level and approved by the
8 appraisal foundation. If it is beneficial to New Mexico
9 [~~registered~~] state apprentice real estate appraisers, state
10 licensed real estate appraisers or state certified real estate
11 appraisers, the board may negotiate agreements with other
12 states allowing reciprocity. The registration, license or
13 certificate shall be issued upon payment of the application
14 fee, verification that the applicant has complied with his
15 resident state's current education requirements and the filing
16 with the board of a license history and verification of good
17 standing issued by the licensing board of the other state.

18 B. The applicant shall file an irrevocable consent
19 that suits and actions may be commenced against him in the
20 proper court of any county of this state in which a cause of
21 action may arise from his actions as a state [~~registered~~
22 apprentice real estate appraiser, state licensed real estate
23 appraiser or state certified real estate appraiser or in which
24 the plaintiff may reside, by the service of any processes or
25 pleadings authorized by the laws of this state on the board,

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1 the consent stipulating and agreeing that such service of
2 processes or pleadings on the board shall be taken and held in
3 all courts to be as valid and binding as if personal service
4 has been made upon the applicant in New Mexico. In case any
5 process or pleading mentioned in the case is served upon the
6 board, it shall be by duplicate copies, one of which shall be
7 filed in the office of the board and the other immediately
8 forwarded by registered mail to the nonresident state
9 ~~[registered]~~ apprentice real estate appraiser, state licensed
10 real estate appraiser or state certified real estate appraiser
11 to whom the processes or pleadings are directed. "

12 Section 18. Section 61-30-21 NMSA 1978 (being Laws 1990,
13 Chapter 75, Section 21, as amended) is amended to read:

14 "61-30-21. TEMPORARY PRACTICE. --

15 A. The board shall recognize, on a temporary basis,
16 the registration, certification or license of a real estate
17 appraiser issued by another state if:

18 (1) the real estate appraiser's business is of
19 a temporary nature and certified by the real estate appraiser
20 not to exceed six months; and

21 (2) the real estate appraiser registers the
22 temporary practice with the board.

23 B. The applicant or any person registering with the
24 board for temporary practice shall file an irrevocable consent
25 that suits and actions may be commenced against him in the

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1 proper court of any county of this state in which a cause of
2 action may arise from his actions as a state [~~registered~~]
3 apprentice real estate appraiser, state licensed real estate
4 appraiser or state certified real estate appraiser or in which
5 the plaintiff may reside, by the service of any processes or
6 pleadings authorized by the laws of this state on the board,
7 the consent stipulating and agreeing that such service of
8 processes or pleadings on the board shall be taken and held in
9 all courts to be as valid and binding as if personal service
10 had been made upon the applicant in New Mexico. In case any
11 process or pleading mentioned in the case is served upon the
12 board, it shall be by duplicate copies, one of which shall be
13 filed in the office of the board and the other immediately
14 forwarded by registered mail to the nonresident state
15 [~~registered~~] apprentice real estate appraiser, state licensed
16 real estate appraiser or state certified real estate appraiser
17 to whom the processes or pleadings are directed. "

18 Section 19. Section 61-30-22 NMSA 1978 (being Laws 1990,
19 Chapter 75, Section 22, as amended) is amended to read:

20 "61-30-22. [~~PENALTY~~] CIVIL AND CRIMINAL PENALTIES--
21 INJUNCTIVE RELIEF.--

22 A. Any person who violates any provision of the
23 Real Estate Appraisers Act is guilty of a misdemeanor and shall
24 be punished by a fine of not more than [~~five hundred dollars~~
25 (~~\$500~~)] one thousand dollars (\$1,000) or by imprisonment for

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1 not more than six months or both.

2 B. In the event any person has engaged in or
3 proposes to engage in any act or practice violating a provision
4 of the Real Estate Appraisers Act, the attorney general or the
5 district attorney of the judicial district in which the person
6 resides or the judicial district in which the violation has
7 occurred or will occur shall, upon application of the board,
8 maintain an action in the name of the state to prosecute the
9 violation or to enjoin the proposed act or practice.

10 C. The board may impose a civil penalty in an
11 amount not to exceed one thousand dollars (\$1,000) for each
12 violation of the Real Estate Appraisers Act and assess
13 administrative costs for any investigation and administrative
14 or other proceedings against a state apprentice real estate
15 appraiser, state licensed real estate appraiser or state
16 certified real estate appraiser or against any person who is
17 found, through an administrative proceeding, to have acted
18 without a license. Appeals from decisions of the board shall
19 be taken as provided in Section 39-3-1.1 NMSA 1978."

20 Section 20. EFFECTIVE DATE. --The effective date of the
21 provisions of this act is July 1, 2003.

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